

AMENDED IN ASSEMBLY APRIL 5, 2010
AMENDED IN ASSEMBLY MARCH 25, 2010
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2317

Introduced by Assembly Member Saldana

February 19, 2010

An act to amend Sections ~~38772, 38773.1, 38773.2, 38773.5, and 38773.6~~ of, and to add Article 4 (commencing with Section 25850) to Chapter 8 of Part 2 of Division 2 of Title 3 of, ~~25845, 38773.1, and 38773.5~~ of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2317, as amended, Saldana. Local government: nuisance abatement.

~~Existing law authorizes the legislative body of a city to declare, by ordinance, what constitutes a nuisance. Existing law authorizes the legislative body of a city, by ordinance, to authorize a court to impose treble damages for the costs of abatement in specified circumstances. Existing law authorizes the legislative body of a city to regulate outdoor advertising and prevent, prohibit, and provide for the removal of an obstruction of a public place.~~

~~This bill would also specifically authorize the board of supervisors of a county to regulate nuisances and obstructions of public places in the same manner that existing law authorizes the legislative body of a city to regulate nuisances and obstructions.~~

Existing law authorizes the legislative body of a city *or county* to establish a procedure to use a nuisance abatement lien or a special assessment to collect abatement *costs* and related administrative costs.

This bill would authorize the legislative body of a city *or county* to also collect fines *related to the nuisance abatement* using a nuisance abatement lien or a special assessment. ~~This bill would also authorize the board of supervisors of a county or city and county to use a nuisance abatement lien or special assessment to collect abatement costs, related administrative costs, and fines.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25845 of the Government Code is
2 amended to read:

3 25845. (a) The board of supervisors, by ordinance, may
4 establish a procedure for the abatement of a nuisance. The
5 ordinance shall, at a minimum, provide that the owner of the parcel,
6 and anyone known to the board of supervisors to be in possession
7 of the parcel, be given notice of the abatement proceeding and an
8 opportunity to appear before the board of supervisors and be heard
9 prior to the abatement of the nuisance by the county. However,
10 nothing in this section prohibits the summary abatement of a
11 nuisance upon order of the board of supervisors, or upon order of
12 any other county officer authorized by law to summarily abate
13 nuisances, if the board or officer determines that the nuisance
14 constitutes an immediate threat to public health or safety.

15 (b) In any action to abate a nuisance, whether by administrative
16 proceedings, judicial proceedings, or summary abatement, the
17 owner of the parcel upon which the nuisance is found to exist shall
18 be liable for all costs of abatement incurred by the county *and fines*
19 *related to the nuisance abatement*, including, but not limited to,
20 administrative costs, and any and all costs incurred in the physical
21 abatement of the nuisance. Recovery of costs pursuant to this
22 section shall be in addition to and shall not limit any prevailing
23 party's right to recover costs pursuant to Sections 1032 and 1033.5
24 of the Code of Civil Procedure or any other provision of law.

25 (c) A county may, by ordinance, provide for the recovery of
26 ~~attorneys'~~ attorney's fees in any action, administrative proceeding,
27 or special proceeding to abate a nuisance. If the ordinance provides
28 for the recovery of ~~attorneys'~~ attorney's fees, it shall provide for
29 recovery of ~~attorneys'~~ attorney's fees by the prevailing party, rather

1 than limiting recovery of ~~attorneys'~~ *attorney's* fees to the county
2 if it prevails. The ordinance may limit recovery of ~~attorneys'~~
3 *attorney's* fees by the prevailing party to those individual actions
4 or proceedings in which the county elects, at the initiation of that
5 individual action or proceeding, to seek recovery of its own
6 ~~attorneys'~~ *attorney's* fees. In no action, administrative proceeding,
7 or special proceeding shall an award of ~~attorneys'~~ *attorney's* fees
8 to a prevailing party exceed the amount of reasonable ~~attorneys'~~
9 *attorney's* fees incurred by the county in the action or proceeding.

10 (d) If the owner fails to pay the costs of the abatement upon
11 demand by the county, the board of supervisors may order the cost
12 of the abatement *and fines related to the nuisance abatement* to
13 be specially assessed against the parcel. The assessment may be
14 collected at the same time and in the same manner as ordinary
15 county taxes are collected, and shall be subject to the same
16 penalties and the same procedure and sale in case of delinquency
17 as are provided for ordinary county taxes. All laws applicable to
18 the levy, collection, and enforcement of county taxes are applicable
19 to the special assessment.

20 (e) If the board of supervisors specially assesses the cost of the
21 abatement against the parcel, the board also may cause a notice of
22 abatement lien to be recorded. The notice shall, at a minimum,
23 identify the record owner or possessor of property, set forth the
24 last known address of the record owner or possessor, set forth the
25 date upon which abatement of the nuisance was ordered by the
26 board of supervisors and the date the abatement was complete,
27 and include a description of the real property subject to the lien
28 and the amount of the abatement cost.

29 (f) However, if the board of supervisors does not cause the
30 recordation of a notice of abatement lien pursuant to subdivision
31 (e), and any real property to which the costs of abatement relates
32 has been transferred or conveyed to a bona fide purchaser for value,
33 or a lien on a bona fide encumbrancer for value has been created
34 and attaches to that property, prior to the date on which the first
35 installment of county taxes would become delinquent, then the
36 cost of abatement shall not result in a lien against that real property
37 but shall be transferred to the unsecured roll for collection.

38 (g) Recordation of a notice of abatement lien pursuant to
39 subdivision (e) has the same effect as recordation of an abstract
40 of a money judgment recorded pursuant to Article 2 (commencing

1 with Section 697.310) of Chapter 2 of Division 2 of Title 9 of Part
2 2 of the Code of Civil Procedure. The lien created has the same
3 priority as a judgment lien on real property and continues in effect
4 until released. Upon order of the board of supervisors, or any
5 county officer authorized by the board of supervisors to act on its
6 behalf, an abatement lien created under this section may be released
7 or subordinated in the same manner as a judgment lien on real
8 property may be released or subordinated.

9 (h) The board of supervisors may delegate the hearing required
10 by subdivision (a), prior to abatement of a public nuisance, to a
11 hearing board designated by the board of supervisors. The hearing
12 board shall make a written recommendation to the board of
13 supervisors. The board of supervisors may adopt the
14 recommendation without further notice of hearing, or may set the
15 matter for a de novo hearing before the board of supervisors.

16 (i) The board of supervisors may, by ordinance, delegate to a
17 hearing officer appointed pursuant to Section 27720 the powers
18 and duties specified by this section.

19 ~~SECTION 1. Article 4 (commencing with Section 25850) is~~
20 ~~added to Chapter 8 of Part 2 of Division 2 of Title 3 of the~~
21 ~~Government Code, to read:~~

22
23 ~~Article 4. Nuisances~~
24

25 ~~25850. By ordinance the board of supervisors may declare~~
26 ~~what constitutes a nuisance.~~

27 ~~25850.1. (a) The board of supervisors may provide for the~~
28 ~~summary abatement of any nuisance resulting from the defacement~~
29 ~~of the property of another by graffiti or any other inscribed material~~
30 ~~at the expense of the minor or other person creating, causing, or~~
31 ~~committing the nuisance and by ordinance may make the expense~~
32 ~~of abatement of the nuisance a lien against property of the minor~~
33 ~~or other person and a personal obligation against the minor or other~~
34 ~~person pursuant to Section 25850.4 or 25850.6.~~

35 ~~(b) The parent or guardian having custody and control of the~~
36 ~~minor shall be jointly and severally liable with the minor. The~~
37 ~~board of supervisors may make the expense of abatement of any~~
38 ~~nuisance, resulting from the defacement by a minor of the property~~
39 ~~of another by graffiti or any other inscribed material, a lien against~~
40 ~~the property of a parent or guardian, having custody and control~~

1 of the minor, and a personal obligation against the parent or
2 guardian having custody and control of the minor pursuant to
3 Section 25850.4 or 25850.6.

4 (e) Notwithstanding any other provision of law, the names and
5 addresses of the parent or guardian having custody and control of
6 the minor, if known, shall be reported by the probation officer of
7 the county to the county clerk or other official designated by the
8 board of supervisors of the county in which the defaced property
9 is located.

10 (d) As used in this section, the following terms have the
11 following meanings:

12 (1) “Expense of abatement” includes, but is not limited to, court
13 costs, attorney’s fees, costs of removal of the graffiti or other
14 inscribed material, costs of repair and replacement of defaced
15 property, and the law enforcement costs incurred by the county in
16 identifying and apprehending the minor or other person.

17 (2) “Graffiti or other inscribed material” means any unauthorized
18 inscription, word, figure, mark, or design that is written, marked,
19 etched, scratched, drawn, or painted on any real or personal
20 property.

21 (3) “Minor” or “other person” means a minor or other person
22 who has confessed to, admitted to, or pled guilty or nolo contendere
23 to a violation of Section 594, 594.3, 640.5, 640.6, or 640.7 of the
24 Penal Code, or a minor convicted by final judgment of a violation
25 of Section 594, 594.3, 640.5, 640.6, or 640.7 of the Penal Code,
26 or a minor declared a ward of the Juvenile Court pursuant to
27 Section 602 of the Welfare and Institutions Code by reason of the
28 commission of an act prohibited by Section 594, 594.3, 640.5,
29 640.6, or 640.7 of the Penal Code.

30 25850.2. The board of supervisors may provide for the
31 summary abatement of any nuisance at the expense of the persons
32 creating, causing, committing, or maintaining it and by ordinance
33 may make the expense of abatement of nuisances a lien against
34 the property on which it is maintained and a personal obligation
35 against the property owner, in accordance with Section 25850.3
36 or 25850.5.

37 25850.3. (a) The board of supervisors may by ordinance
38 establish a procedure to collect abatement and related
39 administrative costs and fines by a nuisance abatement lien. This
40 ordinance shall require notice prior to the recordation of the lien

1 to the owner of record of the parcel of land on which the nuisance
2 is maintained, based on the last equalized assessment roll or the
3 supplemental roll, whichever is more current.

4 (b) The notice shall be served in the same manner as summons
5 in a civil action in accordance with Article 3 (commencing with
6 Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of
7 Civil Procedure. If the owner of record, after diligent search cannot
8 be found, the notice may be served by posting a copy thereof in a
9 conspicuous place upon the property for a period of 10 days and
10 publication thereof in a newspaper of general circulation published
11 in the county in which the property is located pursuant to Section
12 6062.

13 (c) A nuisance abatement lien shall be recorded in the county
14 recorder's office in the county in which the parcel of land is located
15 and from the date of recording shall have the force, effect, and
16 priority of a judgment lien.

17 (1) A nuisance abatement lien authorized by this section shall
18 specify the amount of the lien, the name of the agency on whose
19 behalf the lien is imposed, the date of the abatement order, the
20 street address, legal description and assessor's parcel number of
21 the parcel on which the lien is imposed, and the name and address
22 of the recorded owner of the parcel.

23 (2) In the event that the lien is discharged, released, or satisfied,
24 either through payment or foreclosure, notice of the discharge
25 containing the information specified in paragraph (1) shall be
26 recorded by the governmental agency. A nuisance abatement lien
27 and the release of the lien shall be indexed in the grantor-grantee
28 index.

29 (3) A nuisance abatement lien may be foreclosed by an action
30 brought by the county for a money judgment.

31 (4) Notwithstanding Section 6103, Section 27383, or any other
32 provision of law, the county recorder may impose a fee on the
33 county to reimburse the costs of processing and recording the lien
34 and providing notice to the property owner. A county may recover
35 from the property owner any costs incurred regarding the
36 processing and recording of the lien and providing notice to the
37 property owner as part of its foreclosure action to enforce the lien.

38 25850.4. (a) The board of supervisors may, by ordinance,
39 establish a procedure to collect abatement and related
40 administrative costs incurred in the summary abatement of any

1 nuisance resulting from the defacement by a minor or other person
2 of the property of another by graffiti or any other inscribed
3 material. The ordinance shall require notice to the minor or other
4 person prior to the recordation of a lien on the parcel of land owned
5 by the minor or other person. The ordinance shall require notice
6 to the parent or guardian having custody and control of the minor
7 prior to the recordation of a lien on the parcel of land owned by
8 the parent or guardian having custody and control of the minor.

9 (b) ~~The notice shall be served in the same manner as a summons~~
10 ~~in a civil action pursuant to Article 3 (commencing with Section~~
11 ~~415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil~~
12 ~~Procedure. If the minor or other person, after diligent search, cannot~~
13 ~~be found, the notice may be served by posting a copy of the notice~~
14 ~~upon the property owned by the minor or other person, in a~~
15 ~~conspicuous place, for a period of 10 days. The notice shall also~~
16 ~~be published pursuant to Section 6062 in a newspaper of general~~
17 ~~circulation that is published in the county in which the property is~~
18 ~~located. If the parent or guardian having custody and control of~~
19 ~~the minor, after diligent search, cannot be found, the notice may~~
20 ~~be served by posting a copy of the notice upon the property owned~~
21 ~~by the parent or guardian having custody and control of the minor,~~
22 ~~in a conspicuous place, for a period of 10 days. The notice shall~~
23 ~~also be published pursuant to Section 6062 in a newspaper of~~
24 ~~general circulation that is published in the county in which the~~
25 ~~property is located.~~

26 (c) ~~A graffiti nuisance abatement lien shall be recorded in the~~
27 ~~county recorder's office in the county in which the parcel of land~~
28 ~~is located. From the date of recording, the lien shall have the force,~~
29 ~~effect, and priority of a judgment lien.~~

30 (d) ~~A graffiti nuisance abatement lien authorized by this section~~
31 ~~shall specify the amount of the lien; the name of the agency on~~
32 ~~whose behalf the lien is imposed; the date of the abatement order;~~
33 ~~the street address, legal description, and assessor's parcel number~~
34 ~~of the parcel on which the lien is imposed; and the name and~~
35 ~~address of the recorded owner of the parcel.~~

36 (e) ~~If the lien is discharged, released, or satisfied, either through~~
37 ~~payment or foreclosure, notice of the discharge containing the~~
38 ~~information specified in subdivision (d) shall be recorded by the~~
39 ~~governmental agency. A graffiti nuisance abatement lien and the~~
40 ~~release of the lien shall be indexed in the grantor-grantee index.~~

1 ~~(f) A graffiti nuisance abatement lien may be satisfied through~~
2 ~~foreclosure in an action brought by the county.~~

3 ~~(g) Notwithstanding Section 6103, Section 27383, or any other~~
4 ~~provision of law, the county recorder may impose a fee on the~~
5 ~~county to reimburse the costs of processing and recording the lien~~
6 ~~and providing notice to the property owner. The county may~~
7 ~~recover from the property owner any costs incurred regarding the~~
8 ~~processing and recording of the lien and providing notice to the~~
9 ~~property owner as part of its foreclosure action to enforce the lien.~~

10 ~~(h) As used in subdivision (a), “abatement and related~~
11 ~~administrative costs” include, but are not limited to, court costs,~~
12 ~~attorney’s fees, costs of removal of the graffiti or other inscribed~~
13 ~~material, costs of repair and replacement of defaced property, and~~
14 ~~the law enforcement costs incurred by the county in identifying~~
15 ~~and apprehending the minor or other person.~~

16 ~~(i) The terms “graffiti or other inscribed material,” “minor,”~~
17 ~~and “other person” have the same meaning as specified in Section~~
18 ~~25850.1.~~

19 ~~25850.5.—(a) As an alternative to the procedure authorized by~~
20 ~~Section 25850.3, the board of supervisors may by ordinance~~
21 ~~establish a procedure for the abatement of a nuisance and make~~
22 ~~the cost of abatement, including fines, a special assessment against~~
23 ~~that parcel of land on which the nuisance is maintained.~~

24 ~~(b) A county may, by ordinance, provide for the recovery of~~
25 ~~attorney’s fees in any action, administrative proceeding, or special~~
26 ~~proceeding to abate a nuisance. If the ordinance provides for the~~
27 ~~recovery of attorney’s fees, it shall provide for recovery of~~
28 ~~attorney’s fees by the prevailing party, rather than limiting recovery~~
29 ~~of attorney’s fees to the county if it prevails. The ordinance may~~
30 ~~limit recovery of attorney’s fees by the prevailing party to those~~
31 ~~individual actions or proceedings in which the county elects, at~~
32 ~~the initiation of that individual action or proceeding, to seek~~
33 ~~recovery of its own attorney’s fees. In no action, administrative~~
34 ~~proceeding, or special proceeding shall an award of attorney’s fees~~
35 ~~to a prevailing party exceed the amount of reasonable attorney’s~~
36 ~~fees incurred by the county in the action or proceeding.~~

37 ~~(c) Any procedure established pursuant to this section shall~~
38 ~~include notice, by certified mail, to the property owner, if the~~
39 ~~property owner’s identity can be determined from the county~~
40 ~~assessor’s or county recorder’s records. The notice shall be given~~

1 at the time of imposing the assessment and shall specify that the
 2 property may be sold after three years by the tax collector for
 3 unpaid delinquent assessments. The tax collector's power of sale
 4 shall not be affected by the failure of the property owner to receive
 5 notice. The assessment may be collected at the same time and in
 6 the same manner as ordinary municipal taxes are collected, and
 7 shall be subject to the same penalties and the same procedure and
 8 sale in case of delinquency as provided for ordinary municipal
 9 taxes. All laws applicable to the levy, collection and enforcement
 10 of municipal taxes shall be applicable to the special assessment.
 11 However, if any real property to which the cost of abatement relates
 12 has been transferred or conveyed to a bona fide purchaser for value,
 13 or if a lien of a bona fide encumbrancer for value has been created
 14 and attaches thereon, prior to the date on which the first installment
 15 of the taxes would become delinquent, then the cost of abatement
 16 shall not result in a lien against the real property but instead shall
 17 be transferred to the unsecured roll for collection.

18 (d) A local agency that has imposed an assessment pursuant to
 19 this section may, subject to the requirements applicable to the sale
 20 of property pursuant to Section 3691 of the Revenue and Taxation
 21 Code, conduct a sale of vacant residential developed property for
 22 which the payment of that assessment is delinquent.

23 (e) Notices or instruments relating to the abatement proceeding
 24 or special assessment shall be entitled to recordation.

25 25850.6. (a) As an alternative to the procedure specified in
 26 Section 25850.4, the board of supervisors may, by ordinance,
 27 establish a procedure for the abatement of any nuisance resulting
 28 from the defacement by a minor or other person of property of
 29 another by graffiti or other inscribed material and make the
 30 abatement and related administrative costs a special assessment
 31 against a parcel of land owned by the minor or other person or by
 32 the parent or guardian having custody and control of the minor.
 33 The assessment may be collected at the same time and in the same
 34 manner as ordinary municipal taxes are collected and shall be
 35 subject to the same penalties and the same procedure and sale in
 36 case of delinquency as provided for ordinary municipal taxes. All
 37 laws applicable to the levy, collection, and enforcement of
 38 municipal taxes shall be applicable to the special assessment.
 39 However, if any real property to which the abatement and related
 40 administrative costs relate has been transferred or conveyed to a

1 bona fide purchaser for value, or if a lien of a bona fide
2 encumbrancer for value has been created and attaches thereon prior
3 to the date on which the first installment of the taxes would become
4 delinquent, then the abatement and related administrative costs
5 shall not result in a lien against the real property but shall instead
6 be transferred to the unsecured roll for collection. Notices or
7 instruments relating to the abatement proceeding or special
8 assessment may be recorded.

9 (b) The terms “abatement and related administrative costs,”
10 “graffiti or other inscribed material,” “minor,” and “other person”
11 have the same meaning as specified in Sections 25850.1 and
12 25850.4.

13 25850.7. The board of supervisors, by ordinance, may provide
14 that upon entry of a second or subsequent civil or criminal
15 judgment within a two-year period finding that an owner of
16 property or a person described in paragraph (3) of subdivision (d)
17 of Section 25850.1 is responsible for a condition that may be abated
18 in accordance with an ordinance enacted pursuant to Sections
19 25850.5 and 25850.6, except for conditions abated pursuant to
20 Section 17980 of the Health and Safety Code, the court may order
21 that person to pay treble the costs of the abatement.

22 25850.8. The board of supervisors may do the following:

23 (a) Regulate the exhibition, posting, or carrying of banners,
24 placards, posters, cards, pictures, signs, or advertisements in or on
25 the street, or on or upon buildings, fences, billboards, or other
26 structures; or on or upon any pole in any sidewalk, alley, street,
27 lane, court, park, or other public place.

28 (b) Regulate the suspension of banners, flags, signs,
29 advertisements, posters, pictures, or cards across, or over any
30 sidewalk, alley, street, lane, court, park, or other public place, or
31 such suspension from fences, poles, houses, or other structures.

32 25850.9. The board of supervisors may prohibit and prevent
33 encroachments upon or obstruction in or to any sidewalks, street,
34 alley, lane, court, park, or other public place and provide for the
35 removal of that encroachment or obstruction.

36 SEC. 2. Section 38772 of the Government Code is amended
37 to read:

38 38772. (a) The legislative body may provide for the summary
39 abatement of any nuisance resulting from the defacement of the
40 property of another by graffiti or any other inscribed material at

1 the expense of the minor or other person creating, causing, or
2 committing the nuisance and by ordinance may make the expense
3 of abatement of the nuisance a lien against property of the minor
4 or other person and a personal obligation against the minor or other
5 person pursuant to Section 38773.2 or 38773.6.

6 (b) ~~The parent or guardian having custody and control of the~~
7 ~~minor shall be jointly and severally liable with the minor. The~~
8 ~~legislative body may make the expense of abatement of any~~
9 ~~nuisance, resulting from the defacement by a minor of the property~~
10 ~~of another by graffiti or any other inscribed material, a lien against~~
11 ~~the property of a parent or guardian, having custody and control~~
12 ~~of the minor, and a personal obligation against the parent or~~
13 ~~guardian having custody and control of the minor pursuant to~~
14 ~~Section 38773.2 or 38773.6.~~

15 (c) ~~Notwithstanding any other provision of law, the names and~~
16 ~~addresses of the parent or guardian having custody and control of~~
17 ~~the minor, if known, shall be reported by the probation officer of~~
18 ~~the county to the city clerk or other official designated by the~~
19 ~~legislative body in which the defaced property is located.~~

20 (d) ~~As used in this section, the following terms have the~~
21 ~~following meanings:~~

22 (1) ~~“Expense of abatement” includes, but is not limited to, court~~
23 ~~costs, attorney’s fees, costs of removal of the graffiti or other~~
24 ~~inscribed material, costs of repair and replacement of defaced~~
25 ~~property, and the law enforcement costs incurred by the city or~~
26 ~~city and county in identifying and apprehending the minor or other~~
27 ~~person.~~

28 (2) ~~“Graffiti or other inscribed material” means any unauthorized~~
29 ~~inscription, word, figure, mark, or design that is written, marked,~~
30 ~~etched, scratched, drawn, or painted on any real or personal~~
31 ~~property.~~

32 (3) ~~“Minor” or “other person” means a minor or other person~~
33 ~~who has confessed to, admitted to, or pled guilty or nolo contendere~~
34 ~~to a violation of Section 594, 594.3, 640.5, 640.6, or 640.7 of the~~
35 ~~Penal Code, or a minor convicted by final judgment of a violation~~
36 ~~of Section 594, 594.3, 640.5, 640.6, or 640.7 of the Penal Code,~~
37 ~~or a minor declared a ward of the Juvenile Court pursuant to~~
38 ~~Section 602 of the Welfare and Institutions Code by reason of the~~
39 ~~commission of an act prohibited by Section 594, 594.3, 640.5,~~
40 ~~640.6, or 640.7 of the Penal Code.~~

1 ~~SEC. 3.~~

2 *SEC. 2.* Section 38773.1 of the Government Code is amended
3 to read:

4 38773.1. (a) The legislative body may by ordinance establish
5 a procedure to collect abatement and related administrative costs
6 and fines by a nuisance abatement lien. This ordinance shall require
7 notice prior to the recordation of the lien to the owner of record
8 of the parcel of land on which the nuisance is maintained, based
9 on the last equalized assessment roll or the supplemental roll,
10 whichever is more current.

11 (b) The notice shall be served in the same manner as summons
12 in a civil action in accordance with Article 3 (commencing with
13 Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of
14 Civil Procedure. If the owner of record, after diligent search cannot
15 be found, the notice may be served by posting a copy thereof in a
16 conspicuous place upon the property for a period of 10 days and
17 publication thereof in a newspaper of general circulation published
18 in the county in which the property is located pursuant to Section
19 6062.

20 (c) A nuisance abatement lien shall be recorded in the county
21 recorder's office in the county in which the parcel of land is located
22 and from the date of recording shall have the force, effect, and
23 priority of a judgment lien.

24 (1) A nuisance abatement lien authorized by this section shall
25 specify the amount of the lien, the name of the agency on whose
26 behalf the lien is imposed, the date of the abatement order, the
27 street address, legal description and assessor's parcel number of
28 the parcel on which the lien is imposed, and the name and address
29 of the recorded owner of the parcel.

30 (2) In the event that the lien is discharged, released, or satisfied,
31 either through payment or foreclosure, notice of the discharge
32 containing the information specified in paragraph (1) shall be
33 recorded by the governmental agency. A nuisance abatement lien
34 and the release of the lien shall be indexed in the grantor-grantee
35 index.

36 (3) A nuisance abatement lien may be foreclosed by an action
37 brought by the city for a money judgment.

38 (4) Notwithstanding Section 6103, Section 27383, or any other
39 provision of law, the county recorder may impose a fee on the city
40 to reimburse the costs of processing and recording the lien and

1 providing notice to the property owner. A city may recover from
2 the property owner any costs incurred regarding the processing
3 and recording of the lien and providing notice to the property owner
4 as part of its foreclosure action to enforce the lien.

5 SEC. 4. Section 38773.2 of the Government Code is amended
6 to read:

7 38773.2. (a) The legislative body may, by ordinance, establish
8 a procedure to collect abatement and related administrative costs
9 incurred in the summary abatement of any nuisance resulting from
10 the defacement by a minor or other person of the property of
11 another by graffiti or any other inscribed material. The ordinance
12 shall require notice to the minor or other person prior to the
13 recordation of a lien on the parcel of land owned by the minor or
14 other person. The ordinance shall require notice to the parent or
15 guardian having custody and control of the minor prior to the
16 recordation of a lien on the parcel of land owned by the parent or
17 guardian having custody and control of the minor.

18 (b) The notice shall be served in the same manner as a summons
19 in a civil action pursuant to Article 3 (commencing with Section
20 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil
21 Procedure. If the minor or other person, after diligent search, cannot
22 be found, the notice may be served by posting a copy of the notice
23 upon the property owned by the minor or other person, in a
24 conspicuous place, for a period of 10 days. The notice shall also
25 be published pursuant to Section 6062 in a newspaper of general
26 circulation that is published in the county in which the property is
27 located. If the parent or guardian having custody and control of
28 the minor, after diligent search, cannot be found, the notice may
29 be served by posting a copy of the notice upon the property owned
30 by the parent or guardian having custody and control of the minor,
31 in a conspicuous place, for a period of 10 days. The notice shall
32 also be published pursuant to Section 6062 in a newspaper of
33 general circulation that is published in the county in which the
34 property is located.

35 (c) A graffiti nuisance abatement lien shall be recorded in the
36 county recorder's office in the county in which the parcel of land
37 is located. From the date of recording, the lien shall have the force,
38 effect, and priority of a judgment lien.

39 (d) A graffiti nuisance abatement lien authorized by this section
40 shall specify the amount of the lien; the name of the agency on

1 whose behalf the lien is imposed; the date of the abatement order;
2 the street address, legal description, and assessor's parcel number
3 of the parcel on which the lien is imposed; and the name and
4 address of the recorded owner of the parcel.

5 (e) If the lien is discharged, released, or satisfied, either through
6 payment or foreclosure, notice of the discharge containing the
7 information specified in subdivision (d) shall be recorded by the
8 governmental agency. A graffiti nuisance abatement lien and the
9 release of the lien shall be indexed in the grantor-grantee index.

10 (f) A graffiti nuisance abatement lien may be satisfied through
11 foreclosure in an action brought by the city.

12 (g) Notwithstanding Section 6103, Section 27383, or any other
13 provision of law, the county recorder may impose a fee on the city
14 or city and county to reimburse the costs of processing and
15 recording the lien and providing notice to the property owner. The
16 city or city and county may recover from the property owner any
17 costs incurred regarding the processing and recording of the lien
18 and providing notice to the property owner as part of its foreclosure
19 action to enforce the lien.

20 (h) As used in subdivision (a), "abatement and related
21 administrative costs" include, but are not limited to, court costs;
22 attorney's fees, costs of removal of the graffiti or other inscribed
23 material, costs of repair and replacement of defaced property, and
24 the law enforcement costs incurred by the city or city and county
25 in identifying and apprehending the minor or other person.

26 (i) The terms "graffiti or other inscribed material," "minor,"
27 and "other person" have the same meaning as specified in Section
28 38772.

29 ~~SEC. 5.~~

30 *SEC. 3.* Section 38773.5 of the Government Code is amended
31 to read:

32 38773.5. (a) As an alternative to the procedure authorized by
33 Section 38773.1, the legislative body may, by ordinance, establish
34 a procedure for the abatement of a nuisance and make the cost of
35 abatement, including fines, a special assessment against that parcel
36 of land on which the nuisance is maintained.

37 (b) A city may, by ordinance, provide for the recovery of
38 attorneys' fees in any action, administrative proceeding, or special
39 proceeding to abate a nuisance. If the ordinance provides for the
40 recovery of attorneys' fees, it shall provide for recovery of

1 attorneys' fees by the prevailing party, rather than limiting recovery
2 of attorneys' fees to the city if it prevails. The ordinance may limit
3 recovery of attorneys' fees by the prevailing party to those
4 individual actions or proceedings in which the city elects, at the
5 initiation of that individual action or proceeding, to seek recovery
6 of its own attorneys' fees. In no action, administrative proceeding,
7 or special proceeding shall an award of attorneys' fees to a
8 prevailing party exceed the amount of reasonable attorneys' fees
9 incurred by the city in the action or proceeding.

10 (c) Any procedure established pursuant to this section shall
11 include notice, by certified mail, to the property owner, if the
12 property owner's identity can be determined from the county
13 assessor's or county recorder's records. The notice shall be given
14 at the time of imposing the assessment and shall specify that the
15 property may be sold after three years by the tax collector for
16 unpaid delinquent assessments. The tax collector's power of sale
17 shall not be affected by the failure of the property owner to receive
18 notice. The assessment may be collected at the same time and in
19 the same manner as ordinary municipal taxes are collected, and
20 shall be subject to the same penalties and the same procedure and
21 sale in case of delinquency as provided for ordinary municipal
22 taxes. All laws applicable to the levy, collection and enforcement
23 of municipal taxes shall be applicable to the special assessment.
24 However, if any real property to which the cost of abatement relates
25 has been transferred or conveyed to a bona fide purchaser for value,
26 or if a lien of a bona fide encumbrancer for value has been created
27 and attaches thereon, prior to the date on which the first installment
28 of the taxes would become delinquent, then the cost of abatement
29 shall not result in a lien against the real property but instead shall
30 be transferred to the unsecured roll for collection.

31 (d) A local agency that has imposed an assessment pursuant to
32 this section may, subject to the requirements applicable to the sale
33 of property pursuant to Section 3691 of the Revenue and Taxation
34 Code, conduct a sale of vacant residential developed property for
35 which the payment of that assessment is delinquent.

36 (e) Notices or instruments relating to the abatement proceeding
37 or special assessment shall be entitled to recordation.

38 ~~SEC. 6. Section 38773.6 of the Government Code is amended~~
39 ~~to read:~~

1 ~~38773.6.— (a) As an alternative to the procedure specified in~~
2 ~~Section 38773.2, the legislative body may, by ordinance, establish~~
3 ~~a procedure for the abatement of any nuisance resulting from the~~
4 ~~defacement by a minor or other person of property of another by~~
5 ~~graffiti or other inscribed material and make the abatement and~~
6 ~~related administrative costs a special assessment against a parcel~~
7 ~~of land owned by the minor or other person or by the parent or~~
8 ~~guardian having custody and control of the minor. The assessment~~
9 ~~may be collected at the same time and in the same manner as~~
10 ~~ordinary municipal taxes are collected and shall be subject to the~~
11 ~~same penalties and the same procedure and sale in case of~~
12 ~~delinquency as provided for ordinary municipal taxes. All laws~~
13 ~~applicable to the levy, collection, and enforcement of municipal~~
14 ~~taxes shall be applicable to the special assessment. However, if~~
15 ~~any real property to which the abatement and related administrative~~
16 ~~costs relate has been transferred or conveyed to a bona fide~~
17 ~~purchaser for value, or if a lien of a bona fide encumbrancer for~~
18 ~~value has been created and attaches thereon prior to the date on~~
19 ~~which the first installment of the taxes would become delinquent,~~
20 ~~then the abatement and related administrative costs shall not result~~
21 ~~in a lien against the real property but shall instead be transferred~~
22 ~~to the unsecured roll for collection. Notices or instruments relating~~
23 ~~to the abatement proceeding or special assessment may be recorded.~~
24 ~~(b) The terms “abatement and related administrative costs,”~~
25 ~~“graffiti or other inscribed material,” “minor,” and “other person”~~
26 ~~have the same meaning as specified in Sections 38772 and 38773.2.~~